IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

JUDGMENT
IN
S.B. CRIMINAL APPEAL NO.255/2007

Ajay Singh S/o Prahlad Singh
...Accused-Appellant
Versus
The State of Rajasthan through the P.P.
...Respondent

Date of Judgment ::: 4th April, 2007

PRESENT
HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN

Shri Biri Singh Sinsinwar with
Shri M.P. Khandelwal, Counsel for accused-appellant
Smt. Nirmala Sharma, P.P., for the State

By the Court:-

Accused-appellant Ajay Singh S/o Prahlad Singh has preferred this appeal under Section 374, Cr.P.C., against the judgment and order dated 31st January, 2007, passed by the Additional District & Sessions Judge (Fast Track) No.4, Bharatpur, in Sessions Case No.48 of 2005, whereby he has been convicted and sentenced as under:-

Under Section	Sentence of imprisonment
332, IPC	To undergo 3 years simple imprisonment
353, IPC	To undergo 2 years simple imprisonment
224, IPC	To undergo 2 years simple imprisonment

Under Section	Sentence of imprisonment
3 of the Prevention of Damage to Public Property Act	To undergo 4 years rigorous imprisonment and a fine of Rs.2000/-; in default of payment of fine, to further undergo six months additional simple imprisonment

All the sentences were ordered to run concurrently.

The learned counsel for the appellant, in view of the overwhelming prosecution evidence, did not challenge the conviction of the accused-appellant passed by the trial court and contended that maximum sentence awarded against the accused-appellant by the trial court is 4 years under Section 3 of the Prevention of Damage to Public Property Act, 1984, and the appellant has already remained in jail for two years and ten months as he is in custody since 5th June, 2004,, therefore, his sentence of imprisonment may be reduced to a period of imprisonment already undergone by him.

I have examined the impugned judgment passed by the trial court as well as the prosecution evidence including the statements of complainant PW-12 Raghuveer Das, PW-3 Chandrapal Singh, PW-11 Shivram Sharma, PW-1 Dharam Singh, PW-2 Kan Singh and other prosecution witnesses also, and after considering their statements I am satisfied that the learned trial

court has rightly convicted the accused-appellant and the learned counsel for the appellant rightly did not challenge the conviction on merits.

So far as the submission of the learned counsel for the appellant regarding reduction of sentence of imprisonment of the appellant awarded by the trial court is concerned, I find that under Section 3 of the Act of 1984 the minimum sentence of six months rigorous imprisonment is prescribed which may extend to 5 years imprisonment and with fine. The appellant has already completed the minimum sentence of 6 months as he has already undergone the sentence of imprisonment of 2 years and 10 months in the present case.

After considering all the facts and circumstances of the case, I am inclined to reduce the sentence of imprisonment of the accused-appellant under Section 332, IPC, as well as under Section 3 of the Prevention of Damage to Public Property Act, 1984, to a period of sentence of imprisonment of 2 years and 10 months, already undergone by him.

Consequently, the appeal of the accused-appellant is partly allowed. The conviction and sentence of the appellant under Sections 353 and 224, IPC, is upheld. The conviction of the appellant under

Section 332, IPC, and Section 3 of the Prevention of Damage to Public Property Act, 1984, is reduced to a period of sentence of imprisonment already undergone by him.

The appellant is in jail, therefore, he may be released forthwith, if his custody is not required in any other case.

(Narendra Kumar Jain) J.

//Jaiman//